

103^D CONGRESS
1ST SESSION

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To amend the Internal Revenue Code of 1986 to provide incentives for domestic timber production and manufacturing, and to deny the benefits of certain export subsidies in the case of exports of unprocessed timber.

IN THE HOUSE OF REPRESENTATIVES

MAY 5, 1993

Mr. DEFAZIO introduced the following bill; which was referred to the
Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to provide incentives for domestic timber production and manufacturing, and to deny the benefits of certain export subsidies in the case of exports of unprocessed timber.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “American Timber Sup-
5 ply and Manufacturing Incentives Act”.

1 **SEC. 2. INVESTMENT INCENTIVE FOR DOMESTIC TIMBER**
 2 **PRODUCTION.**

3 (a) IN GENERAL.—Part I of subchapter P of chapter
 4 1 of the Internal Revenue Code of 1986 (relating to treat-
 5 ment of capital gains) is amended by adding at the end
 6 the following new section:

7 **“SEC. 1202. INVESTMENT INCENTIVE FOR DOMESTIC TIM-**
 8 **BER PRODUCTION.**

9 “(a) IN GENERAL.—At the election of any taxpayer
 10 who has qualified timber gain for any taxable year, there
 11 shall be allowed as a deduction from gross income an
 12 amount equal to the qualified percentage of such gain.

13 “(b) QUALIFIED TIMBER GAIN.—For purposes of
 14 this section—

15 “(1) IN GENERAL.—The term ‘qualified timber
 16 gain’ means the lesser of—

17 “(A) the net capital gain for the taxable
 18 year, or

19 “(B) the net capital gain for the taxable
 20 year determined by taking into account only
 21 gains and losses from qualified timber.

22 “(2) QUALIFIED TIMBER.—The term ‘qualified
 23 timber’ means any timber with respect to which the
 24 taxpayer has provided assurances (which are satis-
 25 factory to the Secretary) that substantially all of the

1 processing of the timber will occur within the United
2 States.

3 “(c) QUALIFIED PERCENTAGE.—For purposes of this
4 section, the term ‘qualified percentage’ means the percent-
5 age (not exceeding 30 percent) determined by multiply-
6 ing—

7 “(1) 2 percent, by

8 “(2) the number of years in the holding period
9 of the taxpayer with respect to the timber.

10 “(d) ESTATES AND TRUSTS.—In the case of an es-
11 tate or trust, the deduction under subsection (a) shall be
12 computed by excluding the portion (if any) of the gains
13 for the taxable year from sales or exchanges of capital as-
14 sets which, under sections 652 and 662 (relating to inclu-
15 sions of amounts in gross income of beneficiaries of
16 trusts), is includible by the income beneficiaries as gain
17 derived from the sale or exchange of capital assets.”

18 (b) COORDINATION WITH EXISTING LIMITATIONS.—

19 (1) Subsection (h) of section 1 of such Code
20 (relating to maximum capital gains rate) is amended
21 by inserting after “net capital gain” each place it
22 appears the following; “(other than qualified timber
23 gain with respect to which an election is made under
24 section 1202)”.

1 (2) Subsection (a) of section 1201 of such Code
 2 (relating to alternative tax for corporations) is
 3 amended by inserting after “net capital gain” each
 4 place it appears the following: “(other than qualified
 5 timber gain with respect to which an election is
 6 made under section 1202)”.

7 (c) ALLOWANCE OF DEDUCTION IN COMPUTING AD-
 8 JUSTED GROSS INCOME.—Subsection (a) of section 62 of
 9 such Code (relating to definition of adjusted gross income)
 10 is amended by adding at the end the following new para-
 11 graph:

12 “(14) INVESTMENT INCENTIVE FOR DOMESTIC
 13 TIMBER PRODUCTION.—The deduction allowed by
 14 section 1202.”

15 (d) CONFORMING AMENDMENT.—The table of sec-
 16 tions for part I of subchapter P of chapter 1 of such Code
 17 is amended by adding at the end the following new item:

“Sec. 1202. Investment incentive for domestic timber production.”

18 (e) EFFECTIVE DATE.—The amendments made by
 19 this section shall apply to sales or exchanges after the date
 20 of the enactment of this Act.

21 **SEC. 3. APPLICATION OF PASSIVE LOSS LIMITATIONS TO**
 22 **TIMBER ACTIVITIES.**

23 (a) DETERMINATION OF MATERIAL PARTICIPA-
 24 TION.—Subsection (h) of section 469 of the Internal Reve-
 25 nue Code of 1986 (defining material participation) is

1 amended by adding at the end the following new para-
2 graph:

3 “(6) TREATMENT OF TIMBER ACTIVITIES.—

4 “(A) IN GENERAL.—A taxpayer shall be
5 treated as materially participating in any tim-
6 ber activity for a taxable year if—

7 “(i) the taxpayer’s participation in the
8 activity for such year constitutes substan-
9 tially all of the participation in the activity
10 of all individuals for such year, other than
11 individuals—

12 “(I) who are not owners of inter-
13 ests in the activity,

14 “(II) who are retained and com-
15 pensated directly by the taxpayer, and

16 “(III) whose activities are subject
17 to the oversight supervision, and con-
18 trol of the taxpayer, or

19 “(ii) based on all of the facts and cir-
20 cumstances, the taxpayer participates in
21 the activity on a regular, continuous, and
22 substantial basis during such year, except
23 that for purposes of this clause—

24 “(I) the taxpayers shall not be
25 required to participate in the activity

1 for any minimum period of time dur-
2 ing such year, and

3 “(II) the performance of services
4 by individuals who are not owners of
5 interests in the activity shall not be
6 considered if the services are routinely
7 provided by individuals specializing in
8 such services and such services are
9 subject to the oversight, supervision,
10 and control of the taxpayer.

11 “(B) PARTNERS AND S CORPORATION
12 SHAREHOLDERS.—Subject to paragraph (2),
13 the determination of whether a partner or S
14 corporation shareholder shall be treated as ma-
15 terially participating in any timber activity of
16 the partnership or S corporation shall be based
17 upon the combined participation of all of the
18 partners or shareholders in the activity.

19 “(C) TIMBER ACTIVITY.—For purposes of
20 this paragraph, the term ‘timber activity’ means
21 the planting, cultivating, caring, cutting, or
22 preparation (other than milling) for market, of
23 trees.”

1 “(b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to taxable years beginning after
3 the date of the enactment of this Act.

4 **SEC. 4. DENIAL OF CERTAIN EXPORT SUBSIDIES.**

5 (a) FOREIGN SALES CORPORATION.—Paragraph (2)
6 of section 927(a) of the Internal Revenue Code of 1986
7 (relating to exclusion of certain property) is amended by
8 striking “or” at the end of subparagraph (C), by striking
9 the period at the end of subparagraph (D) and inserting
10 “, or”, and by adding at the end thereof the following:

11 “(E) any unprocessed timber.

12 For purposes of subparagraph (E), the term ‘un-
13 processed timber’ has the same meaning as that
14 given to it in the Customs and Trade Act of 1990
15 (104 Stat. 629).”

16 (b) DOMESTIC INTERNATIONAL SALE CORPORA-
17 TIONS.—Paragraph (2) of section 993(c) of such Code (re-
18 lating to exclusion of certain property) is amended by
19 striking “or” at the end of subparagraph (C), by striking
20 the period at the end of subparagraph (D) and inserting,
21 “, or”, and by adding after subparagraph (D) the follow-
22 ing:

23 “(E) any unprocessed timber.

24 For purposes of subparagraph (E), the term ‘un-
25 processed timber’ has the same meaning as that

1 given to it in the Customs and Trade Act of 1990
2 (104 Stat. 629).”

3 (c) TITLE-PASSAGE RULE.—Subsection (b) of section
4 865 of such Code (relating to source rules for personal
5 property sales) is amended by adding at the end thereof
6 the following: “Notwithstanding the preceding sentence,
7 any income from the sale of any unprocessed timber which
8 is a softwood and was cut from an area in the United
9 States shall be sourced in the United States and the rules
10 of sections 862(a)(6) and 863(b) shall not apply to any
11 such income. For purposes of the preceding sentence, the
12 term “unprocessed timber” has the same meaning as that
13 given to it in the Customs and Trade Act of 1990 (104
14 Stat. 629).”

15 (d) ELIMINATION OF DEFERRAL.—Subsection (d) of
16 section 954 of such Code is amended by adding at the
17 end thereof the following new paragraph:

18 “(4) SPECIAL RULE FOR CERTAIN TIMBER
19 PRODUCTS.—For purposes of subsection (a)(2), the
20 term ‘foreign base company sales income’ includes
21 any income (whether in the form of profits, commis-
22 sions, fees, or otherwise) derived in connection
23 with—

24 “(A) the sale of any unprocessed timber
25 referred to in section 865(b), or

1 “(B) the milling of any such timber out-
2 side the United States.

3 Subpart G shall not apply to any amount treated as
4 subpart F income by reason of this paragraph.”

5 (e) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to sales, exchanges, or other dis-
7 positions after the date of the enactment of this Act.

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